

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Maye Heard,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 14-77-0357
Parcel No. 080/05231-000-000

On December 19, 2014, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Maye Heard was represented by her brother Dennis Ashby. Assistant Polk County Attorney David Hibbard is counsel for the Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

Findings of Fact

Maye Heard is the owner of a residentially classified property located at 1709 7th Street, Des Moines, Iowa. The property was built in 2000 and is a two-story, frame home with 1287 square feet. It has a full, unfinished basement, an open porch. The site is 0.147 acres.

Heard protested her assessment January 1, 2014 of \$90,200, which was allocated as \$5000 in land value and \$85,200 in improvement value, to the Polk County Board of Review. This value did not change from the prior year's assessment; and therefore, Heard was limited to a claim of downward change in value since the last assessment. Iowa Code § 441.37(1)(a)(2). The Board of Review acted on a recommendation from the Assessor's Office to change the condition rating to below-normal and apply additional obsolescence. It thus granted the petition, in part, and reduced the value to \$80,900, allocated as \$4700 in land value and \$76,200 in improvement value.

Heard then appealed to this Board asserting the correct fair market value is \$70,000.

The property has been assessed at roughly \$70,000 to \$98,000 since 2002. The highest assessment was in 2007 and its value has decreased since that time to reflect market conditions. Heard purchased the property in 2001 for \$76,000 from the Community Housing Development Corporation. As part of the program, the property received a ten-year tax abatement. Amy Rasmussen, Director of Litigation with the Assessor's Office, testified for the Board of Review and explained Heard's property had a ten-year graduated abatement, which expired December 31, 2011. Beginning January 1, 2012, the taxes were based on the full assessment. As a result of the abatement, Heard paid taxes on an adjusted assessment, which increased each year as part of the abatement program. The following chart outlines the assessment history and the adjusted assessment (abatement value) on which Heard paid taxes.

Assessment Year	Total Assessed Value	Adjusted Assessed Value (Abatement Value)
2001	\$12,690	\$2,690
2002	\$70,470	\$2,690
2003/2004	\$81,920	\$11,730
2005/2006	\$96,200	\$21,210
2007/2008	\$98,100	\$23,110
2009/2010	\$93,200	\$18,210
2011 *	\$93,500	\$28,510
2012	\$93,500	\$93,500
2013	\$90,200	\$90,200
2014	\$80,900	\$80,900

*Last Year of Abatement

Heard submitted three photos of a property located across the street that is in poor condition and, in her opinion, affects the value of her home. Ashby, on Heard's behalf, explained there are vacant houses, vacant apartments, and vacant lots on Heard's block. Some of the properties are nuisance properties, according to Ashby. Heard does not believe the house is worth the current assessment. We note the 2014 assessment reflects a 5% nuisance factor, added by the Board of Review, because proximity of nuisance properties.

Heard did not provide any comparable sales or other market evidence to support her opinion of value.

Rasmussen also testified regarding the Assessor's Office's recommendation to change the condition rating and add nuisance obsolescence. An inspector from the Assessor's Office completed an exterior inspection of Heard's property and noted the nuisance property across the street. She additionally noted it relied on a sales comparison analysis of four two-story sales located in the subject property's neighborhood. The four properties sold in 2012 and 2013 with sale prices between \$87,000 and \$120,000. After adjustments, the indicated value range of the comparable properties is approximately \$51,500 to \$92,400, with a median of roughly \$82,000. The adjusted sales prices of these properties would tend to suggest that Heard's assessment is reasonable.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject

property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions reflecting market value are to be considered in arriving at market value. §441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

“For even-numbered assessment years, when the property has not been reassessed” a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code § 441.37(1)(a)(2); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). “When this ground is relied upon, the protesting party shall show the decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the pervious assessment year.” *Id.*; *see also Equitable Life Ins. Co.*, 252 N.W.2d at 450 (holding for a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation). Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Heard did not offer any evidence of the January 1, 2014, fair market value, such as an appraisal, a detailed market analysis, or comparable properties adjusted for differences or any evidence of the property's value as of 2013. Both values are required to support a claim of change in value. *Id.* at 450. For the foregoing reasons, we find that Heard has not shown a downward change in value for the subject property.

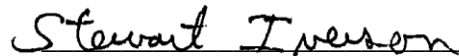
We note, however, that because Heard asserts assessment does not accurately reflect the condition of the property, we urge her to contact the Assessor's Office and request an interior inspection for the 2015 assessment year.

THE APPEAL BOARD ORDERS the 2014 assessment of Maye Heard's property located at 1709 7th Street, Des Moines, Iowa, set by the Polk County Board of Review, is affirmed.

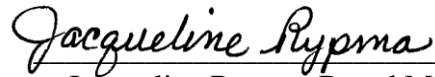
Dated this 16th day of January, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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